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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,009	12/13/2000	Hiroaki Hamano	HAL 135	5643

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EXAMINER	
SALCE, JASON P	

ART UNIT	PAPER NUMBER
2611	10

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/736,009	HAMANO ET AL.	
	Examiner	Art Unit	
	Jason P Salce	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 8.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5, 8, 16, 18-19, 22, 30 and 32 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Abgrall (U.S. Patent No. 6,373,498).

Referring to claim 1, Abgrall discloses retrieving, over a wireless communications link (see Column 2, Lines 42-43), information comprising advertisement data (see Column 4, Lines 5-9), said advertisement data being retrieved from a device coupled to a server (see Column 8, Lines 64-67 and Column 9, Lines 1-2). Also note that the server is also connected to a service center 20, which can be interpreted as the "device".

Abgrall also discloses performing a wireless terminal activation operation in response to said wireless terminal being activated by a user (see Column 9, Lines 56-61), said activation operation including executing a program (see Column 9, Lines 61-

65), said wireless terminal being in a state of down time during a portion of time in which said activation operation is performed, while in said state of downtime said wireless terminal is not ready for use by said user (see Column 2, Lines 45-59 for describing the boot process of the wireless terminal, where during a portions of the boot process, specifically the OS load and boot portions, the system would inherently be inactive to the user and in a state of downtime (not ready for use by the user) because the operating system program, which contains all the functions necessary to operate the wireless terminal, would not even be loaded or initialized).

Abgrall also discloses displaying said advertisement data on said terminal's display during at least a portion of time in which said activation operation is being performed (see Column 9, Lines 60-65 for displaying an advertisement (which was previously downloaded in the "payload" data) during the initial boot sequence of the wireless terminal), during which said program is being executed as part of said activation operation (see Column 9, Lines 56-57), and during which said wireless terminal is in said state of downtime and is not ready for use by said user (see again Column 2, Lines 45-59 and arguments made above).

Referring to claim 2, Abgrall discloses that said activation operation includes performing a boot up sequence, said executed program being used to start the operating system (see Column 2, Lines 45-59).

Referring to claim 5, Abgrall discloses that prior to said state of down time (for example, when the terminal was previously turned on), receiving said advertisement data during a time during which said wireless terminal is active (see Column 9, Lines

56-61 for "previously downloading" the start-up screen logo in Windows), and storing said advertisement in a memory in the wireless terminal for use during a subsequent boot up sequence (see Column 9, Lines 61-65 for storing the previously downloaded start-up screen in the firmware 176).

Referring to claim 8, Abgrall discloses that the step of receiving information comprising advertisement data is performed before the advertisement data is displayed (see Column 9, Lines 61-65).

Referring to claim 16, see the rejection of claim 1. Also note that Abgrall also teaches the additional limitation of said advertising data being selected for at least one user of said remote terminal (see Figure 1 for transmitting the advertisement data to multiple computers 40(1) through 40(N)).

Referring to claim 18, Abgrall discloses the use of a satellite communication means (see Column 2, Lines 41-42).

Referring to claim 19, see the rejection of 2 for displaying the advertising data upon a boot up sequence.

Referring to claim 22, see the rejection of claim 2. Note that a boot up sequence is caused by turning the power of the device on, and is therefore a power up operation.

Referring to claim 30, see the rejection of claim 1.

Referring to claim 32, see the rejection of claim 19.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abgrall (U.S. Patent No. 6,373,498) in view of Abgrall (U.S. Patent No. 6,401,202).

Referring to claim 3, Abgrall ('498 patent) discloses displaying during a portion of said state of downtime (see the rejection of claim 1), but fails to disclose that this state of downtime lasts at least 15 seconds. Abgrall ('202 patent) discloses that a boot up sequence, depending of the type of computer, can range from a few seconds up to half a minute, therefore the boot time can be at least 15 seconds.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the boot up sequence, as taught by Abgrall, using the boot up sequence which takes a few seconds to half a minute to complete, as taught by Abgrall, because as discussed in MPEP 2144.05 I, if claimed ranges "overlap or lie inside ranges disclosed by the prior art", a prima facie case of obviousness exists. (In re Wertheim, 541 F.2d 257, 191 USPQ 90 (CCPA 1976).

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4. Claims 4 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abgrall (U.S. Patent No. 6,373,498) in view of Robins et al. (U.S. Patent No. 6,173,445) in further view of the Netscape Client User Interface Group's Article on the Netscape "Splash Screen".

Referring to claim 4, Abgrall discloses that the activation operation includes execution of a web browser (see Column 10, Lines 17-22), but fails to disclose that the

displaying step is performed during the start up execution of said web browser during a state of down time in which the web browser is executing before the user can interact on the Internet.

Robins discloses downloading splash screens from a server for applications on a client PC, and upon execution of the application, the splash screen downloaded from the server is displayed (see Column 3, Lines 66-67 and Column 4, Lines 1-9).

At the time the invention was made, it would have been obvious of a person of ordinary skill in the art to modify the system for downloading start-up screens for the operating system, as taught by Abgrall, using the system of downloading start-up screens for all applications on a user's PC, as taught by Robins, for the purpose of improving the flexibility of splash screens (see Column 1, Lines 6-8 of Robins).

Although Abgrall and Robins discloses providing splash screens for the operating system, as well as numerous types of applications, Robins specifically does not provide a web browser as an example for providing a dynamic splash screen. Therefore, the examiner notes the Netscape Client User Interface Group's article, that discloses that Netscape contains a splash screen that is displayed upon start-up of the web browser (see page 1).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, for modifying the web browser, as taught by Abgrall and Robins, to provide a splash screen, as taught by the Netscape Client User Interface Group, for the purpose of providing users with the vendor's corporate image and branding (see page 1 of the "Splash Screen" article).

Referring to claim 23, see the rejection of claim 4.

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5. Claims 6-7, 17, 24 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abgrall (U.S. Patent No. 6,373,498) in view of Darbee et al. (U.S. Patent No. 6,278,499).

Referring to claim 6, Abgrall discloses a server sending advertisement data to a wireless terminal (see rejection of claim 1) during said boot up sequence prior to performing said step of displaying said advertised data (see Column 9, Lines 61-65). Abgrall fails to teach the set-top box acting as an intermediate point of communication between the server and the wireless terminal.

Darbee discloses that the wireless terminal is a remote control, which receives advertisement data from a set-top box (see Column 3, Lines 41-46).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the system of Abgrall, to include a set-top box in communication with the wireless device, as taught by Darbee, for the purpose of providing a device that acts as a coffee-table billboard, touting pay-per-view events, products, services coupon offers or any other advertising offers (see Column 3, Lines 20-25 of Darbee).

Referring to claim 7, Abgrall fails to disclose performing the displaying step during the reactivation of said terminal following an inactive period of said terminal, which said terminal's power was on.

Darbee discloses that the wireless device can be equipped with a motion detector that senses if the user has picked up the remote control, at which time a popup overlay of the payload message (advertisement) can be displayed (see Column 3, Lines 36-38).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the system of Abgrall, to include a set-top box in communication with the wireless device, as taught by Darbee, for the purpose of providing a device that acts as a coffee-table billboard, touting pay-per-view events, products, services coupon offers or any other advertising offers (see Column 3, Lines 20-25 of Darbee).

Referring to claim 17, see the rejection of claim 6.

Referring to claim 24, see the rejection of claim 7.

Referring to claim 33, see the rejection of claim 24.

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6. Claims 9, 10-13, 15, 20-21, 25-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abgrall (U.S. Patent No. 6,373,498) in view of Goldstein et al. (U.S. Patent No. 5,410,326).

Referring to claim 9, Abgrall discloses sending advertisement data to a user's wireless terminal (see the rejection of claim 1), but fails to disclose sending advertising data to a user as a function of a zip code associated with at least one user of a terminal.

Goldstein discloses comparing a customer's address with other data in order to determine if advertisements should be transmitted to the user's wireless terminal (See Column 20, Lines 1-14).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the wireless terminal, as taught by Abgrall, using the selective advertisement feature, as taught by Goldstein, for the purpose of conserving bandwidth of the communication medium by only transmitted personalized advertising that relates to the user.

Claim 10 directly relates to claims 9 and 11-13, however, even though Goldstein discloses determining advertisements to transmit to the user based on personal preferences, Goldstein fails to teach "Internet usage history". The examiner takes Official Notice that it is well known to send advertisements to a user based on Internet usage history.

At the time the invention was made, it would have been obvious for a person of ordinary skill in the art, to modify the selective advertising method of Abgrall and Goldstein, using an Internet usage determination, for the purpose of providing a list of favorites web sites to a user in order to bypass extensive search time provided by many search engines.

Claims 11-13 directly relates to claim 9, where Goldstein also teaches the additional limitations of a personalized program menu, program viewing history and usage functions of the terminal at Column 27, Lines 19-67 and Column 28, Lines 1-55).

Claim 15 directly relates to claim 9, where Goldstein discloses the additional limitation of operating said device (service center 20 of Abgrall, who transmits information to the proper servers 22 at Column 4, Lines 32-38) to send a message including a unique identifier of a customer using said wireless terminal and operating the server to select said information comprising advertising data as a function of said unique identifier (see Column 2, Lines 61-67 and Column 3, Lines 29-57 and Column 4, Lines 59-65).

Referring to claim 20, see the rejection of any of the claims 11-13.

Referring to claim 21, see the rejection of claim 9 (which depends on claim 1).

Referring to claim 25, see the rejection of claim 10.

Referring to claims 26-28, see the rejection of claims 11-13, respectively.

Claim 29 directly relates to claim 21, where Goldstein additionally teaches that the advertisement enables the interactive purchase of a product or service described in said advertising data (see Column 28, Lines 59-67 and Column 29, Lines 1-41).

Referring to claim 31, see the rejection of claim 28.

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7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abgrall (U.S. Patent No. 6,373,498).

Referring to claim 14, Abgrall discloses displaying the advertisement on a first display (see rejection of claim 1), but fails to disclose transmitting and displaying an advertisement from a first display to a second display.

The examiner takes Official Notice that it is well known to transfer data between wireless devices by means such as Bluetooth or Infrared. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the wireless terminal, as taught by Abgrall, using the Bluetooth or Infrared functionality, for the purpose of allowing users to share advertisement that they might feel his/her friends might be interested in.

Conclusion

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 21, 2001

CHRIS GRANT
PRIMARY EXAMINER